

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

UNITED STATES DISTRICT COURT

for the

Eastern District of Virginia / Middle District of Pennsylvania

Julian Assange, (Frederick Banks¹
as "next friend" thereto), WikiLeaks
Founder,

Petitioner

United States of America;

Respondent

(name of warden or authorized person having custody of petitioner)

Case No.

19-CV-663

(Supplied by Clerk of Court)

1. Frederick Banks is the only pro se litigant in history to ever win since 1776 a petition for Rehearing in any U.S. Court of Appeals. See In re: Frederick H. Banks, No. 18-1014 (3d. Cir. 9/24/18) and in two letters sent on 11/7/16 and 5/3/17 to Ivanka Trump he exposed that the Trump Campaign was under FISA "electronic surveillance" and that Steele, Bannon was the White House Leaker v. See USA v. Banks, 2:15-cr-168 (WDPA) ECF 259, 352, 593.

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

2242; AND MOTION TO DISCLOSE FISA Electronic Surveillance 28 U.S.C. § 1861(f)

Personal Information

1. (a) Your full name: Frederick Banks / Julian Assange
(b) Other names you have used: _____
2. Place of confinement:
(a) Name of institution: Allegheny County Jail / British Police
(b) Address: 950 Second Avenue / London, UK England
Pittsburgh, PA 15219
(c) Your identification number: 120759
3. Are you currently being held on orders by:
☒ Federal authorities ☐ State authorities ☒ Other - explain: _____
4. Are you currently:
☒ A pretrial detainee (waiting for trial on criminal charges)
☐ Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime
If you are currently serving a sentence, provide:
(a) Name and location of court that sentenced you: _____
(b) Docket number of criminal case: _____
(c) Date of sentencing: _____
☐ Being held on an immigration charge
☒ Other (explain): Assange being held awaiting extradition in Britain on a detainer lodged in this District in USA v. Julian Assange, charge of Conspiracy to Commit Computer Fraud & Abuse. (US DC ED Virginia)

Decision or Action You Are Challenging

5. What are you challenging in this petition:
☐ How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)

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- ☒ Pretrial detention
☐ Immigration detention
☒ Detainer
☐ The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)
☐ Disciplinary proceedings
☐ Other (explain): _____

6. Provide more information about the decision or action you are challenging:

(a) Name and location of the agency or court: U.S. District Court for the Eastern District ofVirginia(b) Docket number, case number, or opinion number: unknown

(c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed):

Extradition Warrant & Detainer lodged in this District.(d) Date of the decision or action: 4/11/19**Your Earlier Challenges of the Decision or Action**7. **First appeal**

Did you appeal the decision, file a grievance, or seek an administrative remedy?

☐ Yes
 ☒ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not appeal: When extraordinary circumstances exist like here exhaustion through the trial and appellate courts is not necessary.

Here the court lacks subject matter jurisdiction. Moore v. De Young, 515 F.2d 437, 443 and at 446 (3d. Cir. 1975) (An extraordinary circumstance exist when a court lacked jurisdiction to bring any criminal charges against the petitioner).

8. **Second appeal**

After the first appeal, did you file a second appeal to a higher authority, agency, or court?

☐ Yes
 ☐ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not file a second appeal: _____

9. **Third appeal**

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

☐ Yes☐ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not file a third appeal: _____

10. **Motion under 28 U.S.C. § 2255**

In this petition, are you challenging the validity of your conviction or sentence as imposed?

☐ Yes☒ No

If "Yes," answer the following:

(a) Have you already filed a motion under 28 U.S.C. § 2255 that challenged this conviction or sentence?

☐ Yes☐ No

If "Yes," provide:

- (1) Name of court: _____
- (2) Case number: _____
- (3) Date of filing: _____
- (4) Result: _____
- (5) Date of result: _____
- (6) Issues raised: _____

- (b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?

☐ Yes☐ No

If "Yes," provide:

- (1) Name of court: _____
- (2) Case number: _____
- (3) Date of filing: _____
- (4) Result: _____
- (5) Date of result: _____
- (6) Issues raised: _____

- (c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence:

A 2241 Habeas Corpus petition is the proper vehicle to raise challenges in a pre-trial context see Moore v. De Young 515 F.2d 437 at 442 (3d Cir. 1975) (note 5 quoting 28 USC § 2241).

11. Appeals of immigration proceedings

Does this case concern immigration proceedings?

☐ Yes☒ No

If "Yes," provide:

- (a) Date you were taken into immigration custody: _____
- (b) Date of the removal or reinstatement order: _____
- (c) Did you file an appeal with the Board of Immigration Appeals?

☐ Yes☐ No

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If "Yes," provide:

- (1) Date of filing: _____
- (2) Case number: _____
- (3) Result: _____
- (4) Date of result: _____
- (5) Issues raised: _____

(d) Did you appeal the decision to the United States Court of Appeals?

☐ Yes ☐ No

If "Yes," provide:

- (1) Name of court: _____
- (2) Date of filing: _____
- (3) Case number: _____
- (4) Result: _____
- (5) Date of result: _____
- (6) Issues raised: _____

12. **Other appeals**

Other than the appeals you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?

☐ Yes ☒ No

If "Yes," provide:

- (a) Kind of petition, motion, or application: _____
- (b) Name of the authority, agency, or court: _____

- (c) Date of filing: _____
- (d) Docket number, case number, or opinion number: _____
- (e) Result: _____
- (f) Date of result: _____
- (g) Issues raised: _____

Grounds for Your Challenge in This Petition

13. State every ground (reason) that supports your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground. Any legal arguments must be submitted in a separate memorandum.

GROUND ONE: The Indictment was not brought in the name of the Real party in Interest because it was brought in the name "United States of America" rather than "United States" in violation of Due Process, 18 USC § 3231, 28 USC § 547 and the 5th Amendment. The District Court lacked jurisdiction over the Indictment and Extradition Warrant holding Petitioner
 (a) Supporting facts (Be brief. Do not cite cases or law.): In unlawful custody. The Indictment was not brought in the name of the Real Party in Interest because it was brought in the name "United States of America" rather than "United States" in violation of Due Process, 18 USC § 3231 + 28 USC 547 and the 5th Amendment. The District Court lacks jurisdiction over the Indictment and Extradition Warrant holding Petitioner. "United States of America" refers to the 13 former British colonies in 1777 under the Articles of Confederation. "United States" refers to the 50 states under the 1789 U.S. Constitution. See "United States" at Bollenheimer Law Exit. 18 USC 3231 grants jurisdiction to the District Court for offenses against "United States" and 28 USC 547 gives the US Attorney jurisdiction over prosecution of "United States" offenses not "United States of America" the defunct former colonies. The District Court lacks jurisdiction over the Indictment and Extradition Warrant holding Petitioner. Thus Petitioner's detainer and Warrant is unlawful.

(b) Did you present Ground One in all appeals that were available to you?
☒ Yes ☐ No where extraordinary circumstances are present such as here where a Court lacks jurisdiction over the criminal charges a Court exercises 2241 Habeas Corpus "pre-trial" jurisdiction even without exhaustion. Moore v. De Young, 515 F.2d 437, 443 and at 446 (3d Cir. 1975).

GROUND TWO: Petitioner is being unlawfully held on the Indictment & extradition Warrant lodged in this district because he never had the opportunity to challenge the Grand Jury Venue and Selection Process before he was Indicted in violation of Fed.R.Crim. Proc. 6(b)(1) + due process and the U.S. Attorney issued Grand Jury Subpoenas without authorization of the Grand Jury in violation of Separation of Powers
 (a) Supporting facts (Be brief. Do not cite cases or law.): The Court lacked jurisdiction over the Indictment & Warrant. Petitioner never had the opportunity to challenge the Grand Jury Array & Individual Grand Juror selection process before he was Indicted in violation of Fed.R.Crim. Proc. 6(b)(1) & due process and the U.S. Attorney issued Grand Jury Subpoenas without authorization of the Grand Jury & received the information responses & testimony from the subpoenaed direct violation of Separation of Powers & due process. The Court lacked jurisdiction over the Indictment & Warrant and Petitioner is held in

(b) Did you present Ground Two in all appeals that were available to you? unlawful custody as a result where extraordinary circumstances are present as when the Court lacks jurisdiction over the criminal charges a Court exercises 2241 Habeas Corpus "pre-trial" jurisdiction even without exhaustion. Moore v. De Young, 515 F.2d 437, 443 and at 446 (3d Cir. 1975).
☒ Yes ☐ No

GROUND THREE: Petitioner was placed under unlawful FISA electronic surveillance in violation of 50 USC § 1801 et seq and as a result he is in custody on this district's charges & Warrant in violation of due process and this Court should disclose the FISA Applications & overhears under 50 USC § 1806(f). The Court lacks jurisdiction.

(a) Supporting facts (Be brief. Do not cite cases or law.):

Petitioner in all the grounds including here challenges the fact of his detention. He was placed under unlawful FISA electronic surveillance in violation of 50 USC § 1801 et seq and as a result he is in custody on charges & a detainer in this district & Warrant in violation of due process and this Court should disclose the FISA Applications & overhears under 50 USC § 1806(f). The Court lacks jurisdiction.

(b) Did you present Ground Three in all appeals that were available to you?

☒ Yes ☐ No see Moore v. De Young, 515 F.2d 437, 443 and at 446 (3d Cir. 1975).

GROUND FOUR: Petitioner is being held in violation of due process because the Conspiracy to Commit Computer Fraud & Abuse is illegal as you cannot enforce a Contract to perform an illegal Act. The Court lacks jurisdiction over the Indictment.

(a) Supporting facts (Be brief. Do not cite cases or law.):

The Indictment charging Conspiracy to Commit Computer Fraud & Abuse is illegal because Petitioner cannot enforce a Contract to perform an illegal Act. The contract & Agreement is therefore Void ab initio and therefore doesn't exist. Since Petitioner cannot enter into a Void Agreement an essential element of Conspiracy the District Court lacks jurisdiction over the Indictment and Petitioner is being unlawfully held in detention in violation of Due Process on an Indictment, detainer & Warrant lodged in the ED of Virginia.

(b) Did you present Ground Four in all appeals that were available to you?

☒ Yes

☐ No

Moore v. De Young, 515 F.2d 437, 443 and at 446 (3d cir 1975).

14. If there are any grounds that you did not present in all appeals that were available to you, explain why you did not:

Request for Relief

15. State exactly what you want the court to do: Discharge Petitioner Assange from custody, lift the Warrant and detainer and declare that the District Court doesn't have jurisdiction over the Indictment. Order the respondents to disclose the ^{FISA} electronic surveillance under 50 USC § 1806(f), appoint counsel and held a hearing along with all other requested or warranted relief.

"next friend" Status 28 USC 2242

1. Frederick Banks is similarly situated to Petitioner Assange as he is also being unlawfully held. See USA v. Banks, 2:15cr168 (WDPA) ECF 735, 736, 745 (government doesn't dispute Banks is being held in violation of due process and Equal protection by the sheer length of his pre-trial detention. Banks had been held in pre-trial confinement for over 45 months and he too is a target of CIA FISA electronic surveillance).
2. Assange is physically incapacitated and unable to access this Court to file this petition on his own and he has no Attorney to file this Action.
3. Banks is the acting agent for Julian Assange and no one alive can act better. See headnote to Courts allow agents pro se petitioners for petitioners to be heard. See Morris v. United States, 399 F.Supp 720 (ED VA 1975) (pro se habeas corpus petition signed by petitioner's agent heard).
4. As Assange's acting agent Banks has petitioner's best interest in mind. Alternatively this Court should allow Petitioner to proceed with appointed counsel or sua sponte find that it lacks jurisdiction over the charges and detainer/warrant.

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Declaration Under Penalty Of Perjury

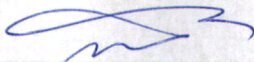
If you are incarcerated, on what date did you place this petition in the prison mail system:

4/11/2019

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date:

4/11/2019



Signature of Petitioner



Signature of Attorney or other authorized person, if any

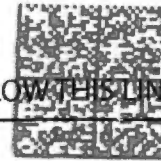
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NAME Frederick Banks

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